

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION

SERGIO SALAZAR	§	
	§	
vs	§	CIVIL ACTION No. 7:19-CV-00314
	§	
SAFECO TRANSPORT, LTD and	§	
TONY CASTRO	§	

PLAINTIFF'S FIRST AMENDED COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

SERGIO SALAZAR, plaintiff, files this First Amended Complaint, complaining of
SAFECO TRANSPORT, LTD, defendant, and shows:

1. PARTIES

Plaintiff is a citizen or permanent resident of the United States. Plaintiff is domiciled in the Southern District of Texas.

Safeco Transport, Ltd. ("Safeco") is a foreign corporation which does business in Texas. Safeco has been served, and has filed an answer.

2. JURISDICTION

This Court has personal jurisdiction over Safeco because it does business in Texas. This Court has diversity jurisdiction over these claims because the action is between a citizen of a state (Texas) and a citizen of a foreign country (Canada), and the amount in controversy, exclusive of interest and costs, exceeds the sum or value specified by 28 U.S.C. § 1332.

3. VENUE

The collision made the subject of this suit occurred in the Southern District of Texas. Venue is thus proper in the Southern District of Texas because a substantial part of the events or omissions

giving rise to plaintiff's claims occurred in the Southern District of Texas. 28 U.S.C. §1391 (a)(2). In addition, Safeco is a corporation deemed to reside in the Southern District of Texas because it is subject to personal jurisdiction in the Southern District of Texas. *Id.* ¶ (c).

4. FACTS

On or about March 8, 2018, plaintiff was operating an 18-wheeler, pulling a utility trailer. Plaintiff was stopped, waiting for a security guard to open the gate to the Transmaritime facility on E. Military Highway in Pharr, Texas. Tony Castro, in the course and scope of his employment for Safeco, was operating his employer's 18-wheeler, pulling a utility trailer, and was stopped behind plaintiff's vehicle. While plaintiff was stopped, Mr. Castro drove forward, turned right, and attempted to drive around plaintiff's vehicle on his left side. Mr. Castro turned too sharply, and collided with the utility trailer plaintiff was pulling. Plaintiff was injured in the collision.

5. NEGLIGENCE. The collision described above, and the resulting injuries and damages suffered by plaintiff, were actually and proximately caused by Tony Castro's negligence in one or more of the following acts or omissions:

- turning unsafely;
- failing to maintain a proper lookout;
- failing to timely and properly apply his brakes prior to the collision;
- failing to maintain control of his vehicle;
- colliding with plaintiff's vehicle.

6. RESPONDEAT SUPERIOR. Safeco owned or leased or otherwise controlled the vehicle Mr. Castro was driving at the time of the collision. At that time, Mr. Castro was an employee of Safeco, and was driving his vehicle in the course and scope of his employment. Safeco is liable to

plaintiff for Mr. Castro's negligence through the doctrine of respondeat superior.

7. DAMAGES

As a direct and proximate result of Tony Castro's acts and omissions, plaintiff suffered serious personal injury. Plaintiff's damages include,

- past, present, and future medical bills;
- past, present, and future physical pain and mental anguish;
- past, present, and future physical impairment;
- lost earning capacity in the past.

8. PREJUDGEMENT INTEREST

Plaintiff seeks pre-judgment interest on past damages.

9. JURY DEMAND

Plaintiff demands a jury.

P R A Y E R

WHEREFORE, plaintiff prays that, on final trial, plaintiff have:

1. Judgment against defendant for actual damages;
2. Pre-judgment interest;
3. Post-judgment interest;
4. Costs of suit;
5. All such other relief, at law or at equity, to which plaintiff may show himself to be entitled.

S/Edward L. Ciccone

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CERTIFICATE OF SERVICE

I certify that on this 16th day of March 2021, I served a true and correct copy of the foregoing to the below persons in the manner indicated.

Melanie R. Cheairs
LORANCE THOMPSON P.C.
2900 North Loop West, 5th Floor
Houston, TX 77029

Electronic Service via the court's CM/ECF system

S/Edward L. Ciccone

Edward L. Ciccone